

REMARKS

Claims 1-36 are pending in this application. By this Amendment, Claim 28 has been amended without prejudice. Claims 29-31 and 36 have been cancelled and new claims 37-40 have been added.

A Restriction Requirement was made in the Office Action dated January 29, 2002. In the Restriction Requirement the claims were divided in the following manner:

Invention I: directed to Claims 1-24 and 32-34, drawn to a preform, orthodontic apparatus, and method of making;

Invention II: directed to Claims 25, 26, drawn to an "expansion core";

Invention III: directed to Claim 27, drawn to "an expansion mechanism";

Invention IV: directed to Claim 28, drawn to "a fastening hook"; and

Invention V: directed to Claims 29-36, drawn to "a device for attaching a fastening hook".

Applicant herein provisionally elects Invention 1 (Claims 1-24 and 32-34) for prosecution with traverse. Applicant also elects Claim 35 as it is drawn to a process claimed in Claim 18 (which is in Group I). Applicant assumes Claim 35's inclusion in Invention V was a typographical error. If this is not the case, Applicant still elects Invention I.

Applicant submits in light of the amended claims and the following arguments that the Restriction Requirement is improper and requests that it be withdrawn in its entirety.

To begin, Applicant has amended Claim 28 to claim an orthodontic or dento-facial orthopedic apparatus rather than a fastening hook. Accordingly, Applicant

submits that Claim 28 is now in a condition to permit it to be examined with Group I as it is directed towards the same subject matter as Claims 1-24 and 32-34. Thus, Applicant submits that the Restriction Requirement is not well taken in regards to amended Claim 28 and requests that it be withdrawn.

Regarding Invention V, Applicant observes that this class is stated in the Office Action as containing Claims 29-36. However, Applicant notes that Claim 35 should belong in Invention I (as explained above) and that Claims 32-34 are already part of Invention I, as stated in the Office Action. Therefore, Applicant will assume for the purposes of this Response that the inclusion of Claims 32-35 in Invention V was the result of a typographical error.

Applicant has cancelled Claims 29-31 and Claim 36 and replaced them with new claims 37-40. Applicant submits that these claims are drawn to a method of making an orthodontic apparatus rather than to a device for attaching a hook. Accordingly, Applicant submits that new Claims 47-50 are now drawn to subject matter encompassed by Invention I, and that they may be examined with the claims of Invention I. Therefore, Applicant requests that the Restriction Requirement be withdrawn as to Claims 47-50 and that they be examined in addition with the claims of Invention I.

As for Inventions II and III, Applicant submits that the Restriction Requirement is not well taken. Inventions II and III are not, as the Office Action states, subcombinations that are disclosed as being usable together in a single combination, or as separately usable.

The Office Action states that the "expansion core" (Invention II) and the

"expansion mechanism" (Invention III) can be used in processes to make items other than an orthodontic apparatus.

Applicant submits that the aim of the present invention is to solve the technical problem of making functional personalized orthodontic apparatus, ready to be fastened in the patient's mouth while avoiding the problems involved by the classical mold process (see specification pages 1, l.33, to p.4, l. 27, and specification p. 4, l. 28, to p. 5, l. 28).

The classical technical problems are solved by providing a new and inventive concept, the preform, and also by carrying out a new process comprising an essential step consisting of the expansion step. To carry out the process according to the invention without using the expansion mechanism or the expansion core requires that the preform be used in a classical thermoforming process. An example of such is by applying compressed air on one side or by creating a depression on the other side of the preform directly in the expansion mold (which consists of a plaster model of the maxillas of the patient).

However, the preform is not airtight in a classical thermoforming process because it comprises a window and does not comprise an area adapted to be compressed in a holding down clamp. The application of air in a classical thermoforming process does not allow the formation and the creation of a final apparatus shape in conformance with orthodontics rules because there is no trajectory control system, thereby generating an improper mold with no therapeutic effects.

Applicant submits that the above is why the expansion mechanism and the expansion core are essential elements of the claimed process. The preform and the

expansion mechanism or expansion core cooperate together to solve the problem that exists in the prior art process. Therefore, Applicant submits that it is improper to consider that the expansion mechanism and the expansion core are subcombinations usable in processes to make items other than an orthodontic apparatus, and reconsideration of the restriction requirement is requested.


Applicant also notes that the Office Action, contrary to the MPEP § 806.5(d) requirements, do not mention an example of utility other than with the invention I. Therefore, Applicant submits that the Restriction Requirement fails to satisfy the requirements of the MPEP and is improper for this reason as well.

Thus, for the reasons stated above, Applicant traverses the imposition of a Restriction Requirement and requests that, in light of the statements and amendments made above, that the Restriction Requirement be withdrawn.

In the event this paper is not timely filed, Applicant hereby petition for an appropriate extension of time. The fee for this extension may be charged to Applicant's Deposit Account No. 01-2300.

Please charge any fee deficiency or credit any overpayment to Deposit Account No. 01-2300, referring to client-matter number 024118-0012.

Respectfully submitted,


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Attachments: Marked Up Copy of Claims

MARKED UP COPY OF CLAIMS

28. (thrice amended) [A fastening hook for an] An orthodontic or dento-facial orthopedic apparatus manufactured according to a process comprising :

- a) providing a female mold based at least in part on study models created by a practitioner from a casting or casting made from a subject,
- b) positioning a preform comprising a thermoplastic material in the female mold,
- c) expanding the preform so as to obtain an apparatus having a bent-back segment for inserting the fastening hook, and
- d) [finishing the apparatus and] removing the apparatus from the mold and finishing the apparatus and comprising one or more fastening hook, wherein the fastening hook is inserted into the bent-back segment of the apparatus[, and
- e) inserting the fastening hook into the bent-back segment].